

REMARKS

This Preliminary Amendment is intended to be fully responsive to the Office Action dated November 27, 2000, and the Advisory Action dated March 21, 2001.

Request for Continued Examination (RCE)

The Applicants have provided a Request for Continued Examination (RCE) for the above-identified Application under 37 C.F.R. § 1.114. The Applicants expressly withdraw any and all claim amendments and remarks (including remarks directed to or about any cited reference) made in connection with the Application prior to filing the RCE, or in connection with any related application. The Applicants do not intend any prior claim amendment or remark in the Application prior to filing the RCE, or any related application, to have any effect on the prosecution or scope of any claim in the present Application.

Advisory Action Dated February 6, 2001

In the Advisory Action dated March 21, 2001, the Examiner stated that the proposed Reply and Amendment filed February 27, 2001 "would not be entered" because it raised "new issues that would require further consideration and/or search," and was "not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal."

The Examiner also indicated that the Information Disclosure Statement filed February 27, 2001 had not been considered. The Applicants have provided a new Information Disclosure Statement for consideration by the Examiner.

Telephonic Interview

The Applicants thank the Examiner for conducting a telephonic interview with the Applicants' representative (Christopher M. Turoski, Registration No. 44,456) on March 29, 2001. During the interview, the Examiner indicated that claims directed to an interaction between the containers would likely receive favorable consideration.

Claim Status

Claims 1-38 stand rejected. On entry of this Preliminary Amendment, Claims 1-38 will be cancelled, and Claims 39-95 will be added. The status for all claims in this Application is shown in TABLE I (below).

Claim Amendments

Claims 1-38 have been cancelled, and Claims 39-95 have been added.

New Claims 39-45, 57-62 and 71-77 are based on Claims 1-7, 8-13 and 14-20 (respectively) of issued U.S. Patent No. 5,842,486 (the '486 patent), which is the basis for this Application. The status, origin and support for new Claims 39-95 is summarized in TABLE 1. No new matter has been added.

TABLE 1

Claim(s)	Status	Corresponding claim in '486 patent	Exemplary Support for claim
1-38	Cancelled	N/A	N/A
39	New/Pending	1	Col. 3, ll. 44-47 and FIGURE 2
40	New/Pending	2	Claim 2 as originally presented
41	New/Pending	3	Claim 3 as originally presented
42	New/Pending	4	Claim 4 as originally presented
43	New/Pending	5	Claim 5 as originally presented
44	New/Pending	6	Claim 6 as originally presented
45	New/Pending	7	Claim 7 as originally presented
46	New/Pending	N/A	Col. 2, l. 67 through col. 4, l. 1
47	New/Pending	N/A	Col. 2, ll. 54-56
48	New/Pending	N/A	Col. 3, ll. 54-56
49	New/Pending	N/A	Col. 4, ll. 44-50
50	New/Pending	N/A	Col. 4, ll. 44-50
51	New/Pending	N/A	Col. 3, ll. 47-53
52	New/Pending	N/A	Col. 3, ll. 44-47
53	New/Pending	N/A	Col. 4, ll. 44-50
54	New/Pending	N/A	Col. 3, ll. 18-21 and FIGURE 2
55	New/Pending	N/A	Col. 5, ll. 29-31 and FIGURE 8
56	New/Pending	N/A	Col. 5, ll. 1-7 and FIGURE 7
57	New/Pending	8	Col. 2, ll. 53-56 and FIGURE 2
58	New/Pending	9	Claim 9 as originally presented
59	New/Pending	10	Claim 10 as originally presented
60	New/Pending	11	Claim 11 as originally presented
61	New/Pending	12	Claim 12 of the '486 patent
62	New/Pending	13	Claim 13 as originally presented
63	New/Pending	N/A	Col. 3, ll. 44-46 and FIGURE 2
64	New/Pending	N/A	Col. 5, ll. 1-7 and FIGURE 7
65	New/Pending	N/A	Col. 3, ll. 44-46
66	New/Pending	N/A	Col. 2, ll. 54-56
67	New/Pending	N/A	Col. 2, ll. 54-56

Claim(s)	Status	Corresponding claim in '486 patent	Exemplary Support for claim
68	New/Pending	N/A	Col. 3, ll. 44-46 and FIGURE 2
69	New/Pending	N/A	Col. 4, ll. 44-50
70	New/Pending	N/A	Col. 4, ll. 44-50
71	New/Pending	14	Claim 14 as originally presented
72	New/Pending	15	Claim 15 as originally presented
73	New/Pending	16	Claim 16 as originally presented
74	New/Pending	17	Claim 17 as originally presented
75	New/Pending	18	Claim 18 as originally presented
76	New/Pending	19	Claim 19 as originally presented
77	New/Pending	20	Claim 20 as originally presented
78	New/Pending	N/A	Col. 3, ll. 18-21 and FIGURE 2
79	New/Pending	N/A	Col. 3, ll. 44-46 and FIGURE 2
80	New/Pending	N/A	Col. 2, ll. 54-56
81	New/Pending	N/A	Col. 4, ll. 3-5 and FIGURE 2
82	New/Pending	N/A	Col. 2, ll. 54-56
83	New/Pending	N/A	Col. 4, ll. 44-50
84	New/Pending	N/A	Col. 4, ll. 44-50
85	New/Pending	N/A	Col. 5, ll. 47-57 and FIGURE 8
86	New/Pending	N/A	Col. 5, ll. 47-57 and FIGURE 8
87	New/Pending	N/A	Col. 5, ll. 29-30 and FIGURE 8
88	New/Pending	N/A	Col. 3, l. 65 through col. 4, l. 1
89	New/Pending	N/A	Col. 5, ll. 3-6 and FIGURE 7
90	New/Pending	N/A	Col. 5, ll. 3-6 and FIGURE 7
91	New/Pending	N/A	Col. 5, ll. 29-31 and FIGURE 8
92	New/Pending	N/A	Claim 1 as originally presented
93	New/Pending	N/A	Claim 1 as originally presented
94	New/Pending	N/A	Col. 2, ll. 53-56
95	New/Pending	N/A	Col. 3, l. 65 through col. 4, l. 1

Claim Rejections - 35 U.S.C. § 112 ¶ 1

In Section 4 of the Office Action dated November 27, 2000, the Examiner rejected Claims 6-14 and 23-36 under 35 U.S.C. § 112 ¶ 1 as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.² Claims 6-14, and 23-36 have been cancelled without prejudice. Accordingly, the rejection to Claims 6-14 and 23-36 under 35 U.S.C. § 112 ¶ 1 has been overcome.

² The Applicants traverse this rejection.

Claim Rejections - 35 U.S.C. § 112 ¶ 2

In Section 6 of the Office Action dated November 27, 2000, the Examiner rejected Claims 14-20 and 23-36 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Claims 14-20 and 23-36 have been cancelled without prejudice. Accordingly, the rejection to Claims 14-20 and 23-36 under 35 U.S.C. § 112 ¶ 2 has been overcome.

Claim Rejections - 35 U.S.C. §§ 102 and 103

In Section 7 of the Office Action dated November 27, 2000, the Examiner rejected Claims 1, 8, 21-23, 35 and 37-38 under 35 U.S.C. §§ 102(a) and 102(e) as being anticipated by U.S. Patent No. 5,875,918 ("Sheffler et al."). In Section 10 of the Office Action, the Examiner rejected Claims 2-7, 9-20, and 24-34 under 35 U.S.C. § 103(a) as being obvious over Sheffler et al., a single reference. In Section 10 of the Office Action, the Examiner rejected dependent Claims 9-13 and 16-17 under 35 U.S.C. § 103(a) as being obvious over Sheffler et al. in view of U.S. Patent No. 4,454,889 ("Contreras, Sr."). In Section 12 of the Office Action, the Examiner rejected dependent Claims 33-34 under 35 U.S.C. § 103(a) as being obvious over Sheffler et al. in view of U.S. Patent No. 4,568,519 ("Seidler et al.").

1. **New Claims 39-84.**

In response to the rejection of Claims 1-38 under 35 U.S.C. §§ 102 and 103, the Applicants make this statement:

Claims 1-38 have been cancelled without prejudice. New independent Claim 39 (and corresponding new dependent Claims 40-56), new independent Claim 57 (and corresponding new dependent Claims 58-70), and new independent Claim 71 (and corresponding new dependent Claims 72-84) have been added to each recite in proper form subject matter the Examiner indicated in the telephonic interview on March 29, 2001 would likely be "allowable" (i.e. patentable over the cited references). By canceling and adding such claims, the Applicants wish to make it unmistakably clear that they do not agree to or acquiesce in the rejections to Claims 1-38 and/or agree with the Examiner's view of the scope and the content (i.e. disclosure) of Sheffler et al., Contreras, Sr. and/or Seidler et al.³ The Applicants have cancelled

³ At this time, the Applicants maintain that such claims recite subject matter patentable over the cited references.

and added such claims only to obtain prompt allowance of claims reciting subject matter indicated as allowable by the Examiner.

2. New Claims 85-95.

Sheffler et al. shows a "container" having a "sealing mechanism which relies essentially on a relatively high, linear or in-like pressure track or area that is established by a sharp, substantially 90 degree apex or corner configuration" (Sheffler et al. at col. 5, lines 26-29 and Figures 1-2). Sheffler et al. states that an "air-tight seal" may be obtained (see col. 6, lines 29-33). Sheffler et al. does not identically disclose the combination of elements recited in independent Claims 85 and 92 (as newly presented). For example, independent Claim 85 recites a "compact for storing makeup" including, among other elements, "a first platform coupled to a second platform and configured for selective movement between a first position and a second position," a "rim extending from the second platform," a "channel disposed between a first wall and a second wall of the first platform and having at least three sealing surfaces," providing a "hermetic seal between the first platform and the second platform at two of the sealing surfaces," which is not identically disclosed in Sheffler et al.; and independent Claim 92 recites a "container for storing cosmetics" including, among other elements, a "base means for providing a base," a "cover means for providing a cover selectively positionable between a first position and a second position," and a "seal means for forming a hermetic seal between the cover means and the base means," wherein the "hermetic seal is formed when the cover means is in the first position," which is not accomplished in substantially the same way as shown in Sheffler et al. 35 U.S.C. § 112 ¶ 6. Accordingly, independent Claim 85 (and corresponding dependent Claims 86-91), and independent Claim 92 (and corresponding dependent Claims 93-95), are not anticipated by Sheffler et al. under 35 U.S.C. §§ 102(b) and 102(e) and are patentable.

Sheffler et al. relates to a "hermetically-sealed container and closure construction." Contreras, Sr. relates to a "compact with air tight closure." Seidler et al. relates to a "compact case." Sheffler et al., as modified in the Office Action dated November 27, 2000 or in combination with Contreras, Sr. and/or Seidler et al., would not result in the subject matter recited in independent Claims 85 and 92 (as newly presented) because the proposed modification of Sheffler et al. or combination with Contreras, Sr. and/or Seidler et al. does not disclose, teach or suggest the "compact for storing makeup" or the "container for storing cosmetics" recited in independent

Claims 85 and 92. Furthermore, to transform Sheffler et al. (alone or in combination with Contreras, Sr. and/or Seidler et al.) into the compact for storing makeup" or the "container for storing cosmetics" recited in independent Claims 85 and 92 would require still further modification, and such modification is taught only by the Applicants' own disclosure. Accordingly, the subject matter recited in independent Claim 85 (and corresponding dependent Claims 86-91) and independent Claim 92 (and corresponding dependent Claims 93-95), considered as a whole, would not have been obvious to a person having ordinary skill in the art and is patentable.

Independent Claim 85 (and corresponding dependent Claims 86-91), and independent Claim 92 (and corresponding dependent Claims 93-95), are not anticipated by Sheffler et al. under 35 U.S.C. §§ 102(b) and 102(e), or obvious in view of Sheffler et al., Contreras, Sr. and/or Seidler et al. under 35 U.S.C. § 103(a), and are patentable. Accordingly, the Applicants request withdrawal of the rejection of Claims 1-39 under 35 U.S.C. §§ 102 and 103 and allowance of new Claims 85-95.

* * *

It is submitted that each outstanding objection and rejection to the Application has been overcome, and the Application is in a condition for allowance. On entry of this Preliminary Amendment, Claims 39-95 will be pending in this Application. The Applicants respectfully request favorable reconsideration and allowance of all pending Claims 39-95.

The Examiner is invited to telephone the undersigned if such would advance the prosecution of the Application.

Respectfully submitted,

Date

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